

APPLICANT(S): ID DAN, Gavriel J.
SERIAL NO.: 10/812,908
FILED: March 31, 2004
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REMARKS

The present response is intended to be fully responsive to all points of objection and/or rejection raised by the Examiner and is believed to place the application in condition for allowance. Applicant asserts that the present invention is new, non-obvious and useful. Prompt consideration and allowance of the claims is respectfully requested.

Status of Claims

Claims 1, 2, 4-13, 15-24 and 29-42 are pending in the application and are rejected.

Claims 1, 13 and 29 are amended herein. Applicants assert that these claim amendments add no new subject matter to the application.

CLAIM REJECTIONS

35 U.S.C. § 102 Rejections

In the final Office Action, the Examiner maintained his rejection of claims 1, 2, 4-13, 15-24, and 29-42 under 35 U.S.C. § 102(e), as being anticipated by Yokoi et al. (U.S. Patent Application Publication No. 2003/0181788, also JP2002-084387). Applicants respectfully traverse this rejection in view of the remarks that follow.

In the Office Action dated May 9, 2008, the Examiner stated that magnet 36 of Yokoi et al. shown in FIG. 8B is located off the longitudinal axis of symmetry 38 and functions as a ballast, so that the device has a center of gravity displaced from the longitudinal axis of symmetry (referring to paragraph [0134]). In response, Applicant pointed to paragraphs [0020] and [0097-98] of Yokoi et al., which state that the center of gravity in the capsule main unit matches the longitudinal center axis of the capsule, and argued that the one or more internal magnets with N-S poles must always be oriented about the longitudinal axis to prevent axial and eccentric rotation that may impede imaging. Applicant contended that it would destroy the functionality of the Yokoi et al. if the center of gravity and the center of the direction of magnetism were not positioned on the longitudinal axis of the capsule.

In the final Office Action, the Examiner clarified that he is referring to an embodiment such as in FIG. 7A of Yokoi et al., wherein either of multiple magnets 36 that

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are placed symmetrically across the longitudinal center axis 38 of the capsule (see paragraph [0131] of Yokoi et al.) is considered to be a ballast. The Examiner refers to one of the magnets that is balanced out by another magnet and states that the claims' use of "comprising" language allows the limitations of the claims to be met even if other elements within the capsule serve to counter balance the capsule. The Examiner points out that, as a result, the claims do not convey the limitation the capsule as a whole has a center of gravity displaced from the longitudinal axis of symmetry.

The Examiner has helpfully suggested an additional phrase that, if added to the claims, will avoid the interpretation of the ballast made above with respect to Yokoi et al. In response, Applicant has amended claims 1, 13 and 29 as suggested by the Examiner, such that these claims now recite "a ballast located off the longitudinal axis of symmetry" so that the "device, without any counterbalance elements, has a center of gravity displaced from the longitudinal axis of symmetry" in the direction of the window or of an in vivo area to be imaged.

Applicant contends that Yokoi et al. does not have "a ballast located off the longitudinal axis of symmetry" and the device of Yokoi et al., "without any counterbalance elements", does not have "a center of gravity displaced from the longitudinal axis of symmetry" toward the window or an in vivo area to be imaged, as recited in the amended claims.

Thus, amended independent claims 1, 13 and 29 are not anticipated by Yokoi et al. Claims 2, 4-12, 15-24 and 30-42, which are dependent upon one of independent claims 1, 13 and 29 and necessarily include the limitations of that claim, are likewise not anticipated by Yokoi et al. Applicants respectfully request reconsideration and withdrawal of the rejections of claims 1, 2, 4-13, 15-24, and 29-42.

In view of the foregoing amendments and remarks, the pending claims are deemed to be allowable. Their favorable reconsideration and allowance is respectfully requested.

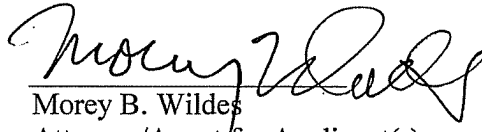
Should the Examiner have any question or comment as to the form, content or entry of this Amendment, the Examiner is requested to contact the undersigned at the telephone number below. Similarly, if there are any further issues yet to be resolved to advance the

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prosecution of this application to issue, the Examiner is requested to telephone the undersigned counsel.

Please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,



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Dated: December 16, 2008

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